

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

ROLAND CARLY SAINTLOT,

Plaintiff,

v.

Case No. 3:18cv441-TKW-MAF

**CHRISTOPHER WHITEHEAD,
et al.,**

Defendants.

_____/

ORDER

This case is before the Court based on the magistrate judge's Order (Doc. 132) indicating that the case is ready to be set for trial. Upon review of the case file, the Court finds that there are several additional things that need to be done before the Court will set a trial date. Accordingly, the case will be referred back to the magistrate judge for the purposes described below.

First, although the magistrate judges correctly ruled that the Court does not have the authority to appoint counsel for Plaintiff (*see* Docs. 5, 8, 29, 60, 83, 105, 128) in this case, the Court has serious reservations about Plaintiff's ability to present this case at trial without the assistance of counsel and the Court finds that counsel would greatly aid the administration of justice and the efficiency and fairness of trial.

Accordingly, although the Court cannot appoint counsel for Plaintiff, the Court will solicit attorneys to volunteer to represent him pro bono.

Second, the Court notes that there has been no mediation or settlement conference in this case. The Court requires that the parties try to resolve this case with the assistance of a neutral facilitator before the case will be set for trial. The magistrate judge is well-suited for this role because he is familiar with the case and, unlike a private mediation, there are no fees for a settlement conference with a magistrate judge.

Third, the parties need to file witness and exhibit lists and a summary of the facts they intend to present to get prepared for trial and to help the Court determine how much time will be needed for the trial if the case is not resolved at the settlement conference. This information should be filed prior to the settlement conference so it will be available to the magistrate judge to help frame the discussions at the conference.

Accordingly, it is **ORDERED** that:

1. Trial. The Court defers setting this case for trial at this time.
2. Potential Representation for Plaintiff.

(a) The Clerk shall select an attorney from the appropriate divisional Volunteer Lawyers' Project panel for designation in this case, if available.

(b) If panel designation is not available, the Clerk is directed to publish on the Court's public website an announcement of pro bono opportunity pertaining to this case. The announcement shall state:

This is a notice of an opportunity to provide pro bono representation in a case ready to be set for jury trial in Pensacola. The case is *Saintlot v. Whitehaed, et al.*, Case No. 3:18cv441-TKW-MAF.

Plaintiff, an inmate in the custody of the Florida Department of Corrections, currently incarcerated at the Santa Rosa Correctional Institution (SCRI) in Milton, Florida, seeks relief under 42 U.S.C. § 1983 against several correctional officers, as a result of an allegedly unconstitutional use of force on November 10, 2016, while Plaintiff was an inmate at SRCI. Defendants' motion for summary judgment was granted in part and denied in part, and the case is ready to proceed to trial. *See* Doc. 123.

Public funds are not available for payment of attorney's fees. Fees may be recoverable under applicable law if plaintiff ultimately prevails. *See* 42 U.S.C. § 1988. Limited funds sometimes are available from the district's Bench and Bar Fund for payment of out-of-pocket expenses incurred by attorneys providing representation of this type.

Members of the District's bar will be afforded access to the electronic docket without charge for the purpose of considering whether to undertake the representation. Any attorney who wishes to provide representation should contact Plaintiff directly and may enter the case by filing a notice of appearance. If counsel appears, the Court will hold a scheduling conference by telephone.

Any attorney who wishes to appear should file a notice of appearance by **December 31, 2020**.

(c) The Clerk is also directed to send this Order to all members of the Court's bar who receive electronic noticing.

3. Referral to Magistrate Judge. The Clerk is directed to refer the case file to the magistrate judge on December 31, 2020, or upon appearance of counsel on behalf of Plaintiff, whichever occurs first. The referral to the magistrate judge shall be for a period of 60 days, unless the magistrate determines that additional time is necessary to complete the tasks described below.
4. Pre-trial Filings. Upon referral of the case file, the magistrate judge shall establish a schedule for each party to file a narrative written statement of the facts that will be presented on his behalf through oral or documentary evidence at trial; a list of all exhibits the party will offer into evidence at trial; and a list of the names and addresses of all the witnesses the party intends to call and a succinct summary of the expected testimony of each witness.
5. Settlement Conference. After receiving the parties' pre-trial filings, the magistrate judge shall schedule a settlement conference with the parties. The conference will be conducted however the magistrate judge deems appropriate. The magistrate judge who conducts the settlement conference will have no further role in the case, and any further matter referred to a magistrate judge will be referred to a *different* magistrate judge.

Everything said during the settlement conference—other than the terms of any settlement agreement itself—is confidential and inadmissible as a settlement negotiation. *See* N.D. Fla. Loc. R. 16.3.

6. Referral to District Judge. If the case is not resolved at the settlement conference, the magistrate judge shall discuss with the parties how long they expect to need for trial and then refer the case file to the undersigned for trial along with that information. The undersigned will thereafter solicit proposed trial dates from the parties and set the case for trial on the first available date.

DONE and ORDERED this 20th day of November, 2020.

T. Kent Wetherell, II
T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE